

**MEMO SUBMITTED TO THE  
JOINT NATIONAL ASSEMBLY COMMITTEE  
ON INEC AND ELECTORAL MATTERS FOR THE  
REVIEW OF THE ELECTORAL ACT 2010  
(AS AMENDED)**



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## **INTRODUCTION**

Elections all over the world remain the bedrock of democracy as it allows the people to truly take charge of their governance by determining who their leaders are and the policies (presented in party manifestos) with which they are governed. Given its pivotal place in a democracy, therefore, the laws governing the processes and procedures of elections must be sufficient to protect the sanctity attached to it. While the conduct of elections remains troubled in Nigeria, there is no doubt that tremendous gains enabled, particularly through legislations, and policies by the Independent National Electoral Commission (INEC), have been recorded in improving the quality of the nation's electoral process. However, a lot more still needs to be done. A tell-tale sign that all is not well with our elections is the progressive decline in voter turnout in every cycle of elections in the country. This worrying sign demonstrates a loss of faith in the democratic process of electing leaders by the people. This loss of faith could also be explained in the violent nature of elections in the country, the commoditization of electoral franchise, electoral malfeasance of various kinds, the complicity of state institutions in orchestrating electoral malpractices, and many more ills plaguing Nigeria's elections. All of the foregoing indicates an urgent need to reform and improve the electoral laws in order to salvage the nation's democracy. It is as a result of this that Yiaga Africa submits this memo to the joint committees of the Senate and House of Representatives on INEC and Electoral Matters. The organization welcomes the move not to amend the subsisting 2010 Electoral Act but rather to repeal the various versions of the electoral law in circulation. and enact a new Electoral Act.

Given its experience in electoral-related matters, Yiaga Africa's memo speaks to identified gaps in the nation's electoral law which if plugged will contribute to strengthening elections in Nigeria and building our democracy. Our proposal covers issues related to election administration and technology, electoral justice, political parties' primaries, electoral finance, and political inclusion of women, youth, and persons with disabilities- all constituting a probable and ideal legal framework for election conduct and transparency in future election engagements.

Election administration and outcomes remain a recondite issue in Nigeria's electoral democracy. Worried by the general perception of partisanship in the nation's electoral umpire, our proposal seeks to suggest a new approach of constituting the commission to insulate it from every form of partisanship and bias. Equally contained herein are proposed amendments to ensure timely and adequate funding of the electoral commission to improve its efficiency and independence. This memo equally seeks to review the powers of returning officers in the declaration of results and returning of winners.

More so, our memo proposes a more punitive prosecution of electoral offenders through the establishment of an Electoral Offences Commission as recommended by the Justice Uwais Panel's report of 2008. While mindful of the fact that this will require an amendment of Part 1 of the Third Schedule of the 1999 Constitution (as amended) Yiaga Africa believes that this Committee can equally suggest this to the Committees on review of the 1999 Constitution.

The issue of political party monopoly, weak democratic institutions, the growing culture of impunity, commoditizing of democratic rights, compromised security agents and election officials led to the crisis of diminishing confidence in the process. Similarly, the assault on voting rights, an increase in spates of electoral violence, and political thuggery contribute to the increasing withdrawal of citizens from participating in elections, thereby leading to a steady decline in voter turnout.

Our proposal equally seeks to sanitize the candidates' nomination process as well as empower INEC to monitor and regulate party primaries. In addition, to empower INEC leverage technology in the conduct of elections in the country. Experience has shown that the current electoral process, from voter's registration, political party primaries, and campaigns to actual voting/counting and declaration of results needs to be reworked in the interest of national unity and progress. More importantly, to sustainably address these issues, efforts must be geared towards addressing the pattern of appointments at INEC, technological gaps, procedural inconsistencies, campaign financing, election security, handling electoral offences, and the challenge of logistics, as this will go a long way in resolving the many challenges that confront our electoral democracy.

One of the high points for these proposals and bills before this 9th Assembly must be in ensuring that the inclusion of under-represented groups like women, youth, and people with disabilities (PWD) are well reflected, in ways that are devoid of ambiguity and lack of compelling sanctions to anyone or group who chooses to do otherwise. All of these issues, if addressed, will be instrumental in restoring the confidence of citizens in our electoral process.

The increasing cost of elections and contrasting drop in citizens' confidence in the process are not good signs for Nigeria's democracy. Thus, electoral policies must guarantee people's participation, protect the sanctity of voters, and advance electoral justice. This informed our memorandum to the Joint Committee of the National Assembly for the repeal of the 2010 electoral act and enactment of the 2020 electoral amendment act taking into cognizance critical areas.

These proposed alterations and amendments to the 1999 constitution of the Federal Republic of Nigeria (as amended) as well as the Electoral Act, 2010 (as amended), encompasses our quest to address the declining quality of elections and the loss of faith in the democratic institution as a result of the apparent inadequacies inherent in our current electoral framework in its delivery of free, fair, credible and inclusive elections in Nigeria.

**ELECTORAL AMENDMENT PROPOSITION TO THE ELECTORAL ACT 2010 (AS AMENDED)**

**Title:** Yiaga Africa observes that there is a disparity between the long title of the proposed Amendment Bill and the short title as contained in section 157. While the long title suggests that this is an establishment Bill seeking to create an Independent National Electoral Commission, the short title in section 157 speaks more correctly to general electoral matters. We urge the Committees to amend the long title of the repeal and re-enactment bill to reflect what it is, “Electoral Bill 2020”.

**Use of Gender-Inclusive Pronoun:** Considering the proposal for the re-enactment of a new Electoral Act, Yiaga Africa proposes the adoption of gender-inclusive pronouns; He/She, His/Her, Himself/Herself in the drafting of the new Electoral Amendment Bill.

<b><u>S/N</u></b>	<b><u>Principal Act</u></b>	<b><u>Proposed Amendments</u></b>
	<p align="center"><b><u>ESTABLISHMENT OF THE INDEPENDENT NATIONAL ELECTORAL COMMISSION FUND</u></b></p> <p>3(1) There shall be established for the Commission a fund to be known as Independent National Electoral Commission Fund</p> <p>(2) There shall be paid into the Fund established in pursuance to subsection (1) of this Section-</p> <p>a) such sums and payments available to the Commission for carrying out its functions and purposes under the Constitution and this Act and all other assets from time to time accruing to the Commission.</p> <p>(b) such sums as may, from time to time, be credited to the Fund by way of interest from investments made from the fund.</p> <p>(c) aid and grants that may from time to time accrue to the Commission in order to carry out its functions.</p> <p>(3) Disbursements from the fund shall be made in accordance with rules established by the Commission.</p>	<p>Section 3 of the Principal Act is amended inserting a new subsection 3 2(a) and (d)</p> <p>2(a) such sums and payments available to the Commission for carrying out its functions under the Constitution and this Act, provided that the funds for General Elections shall be released to the Commission not later than 180 days to the date appointed for the elections.</p> <p>2(d) All other assets from time to time accruing to the Commission.</p>
	<p align="center"><b><u>NATIONAL REGISTER OF VOTERS AND VOTERS’ REGISTRATION</u></b></p>	<p>1. Section 9 of the Principal Act is amended by inserting after the words ‘Register</p>

	<p>9. (1) The Commission shall compile, maintain, and update, on a continuous basis, a National Register of Voters, in this Act referred to as the (“Register of Voters”) which shall include the names of all persons entitled to vote in any Federal, State or Local Government or Area Council elections.</p>	<p>of Voters’, the expressions ‘in both manual and electronic format’</p>
	<p><b><u>DAYS OF ELECTION</u></b></p> <p>25. (1) Election to each House of the National Assembly shall hold on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.</p> <p>(2) The date mentioned in subsection (1) of this section shall not be earlier than 150 days and not later than 30 days before the House stands dissolved, or where the election is to fill a vacancy occurring more than 90 days before such date, not later than 30 days.</p> <p>(3) Elections to the House of Assembly of a State shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.</p> <p>(4) The date mentioned in subsection (3) of this section shall not be earlier than 150 days and not later than 30 days before the House stands dissolved, or where the election is to fill a vacancy occurring more than 90 days’ before such date, not later than 30 days.</p> <p>(5) An election to the office of President shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.</p> <p>(6) An election to the said office of the President shall be held on a date not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder of that office.</p> <p>(7) An election to the office of the Governor of a State held on a date to be appointed by the Independent</p>	<p>2. section 25 of the Principal Act is amended by inserting a new subsection (3) to read:</p> <p><i>‘In an election into any of the offices in (1) (2) the Commission shall allow a person to apply for and cast a special vote prior to election day, if, on election day, that person cannot vote at a polling unit where they register as a voter due to:</i></p> <p><i>(a) Such a person being a member of an accredited observer group</i></p> <p><i>(b) Such a person being accredited media personnel</i></p> <p><i>(c) Such a person being on duty as a member of the security agency on duty as it relates to Election</i></p> <p><i>(d) Such a person being on duty as an official of the Election Management Body’</i></p>

	<p>Electoral Commission in accordance with the tion and this Act.</p> <p>(8) An election to the office of the Governor of a State shall be held on a date not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder of that office.</p>	
	<p><b><u>NOTICE OF ELECTION</u></b></p> <p>30. (1) The Commission shall not later than 90 days before the day appointed for holding election under this Act publish a notice in each state of the Federation and the Federal Capital Territory-</p> <p>(a) stating the date of the election; and (b) appointing the place at which nomination papers are to be delivered.</p>	<p>Section 30(1) of the Principal Act is amended by replacing 90 days with 150 days to read:</p> <p><i>The Commission shall not later than 150 days before the day appointed for holding election under this Act publish a notice in each state of the Federation and the Federal Capital Territory-</i></p>
	<p><b><u>SUBMISSION OF LIST OF CANDIDATES AND THEIR AFFIDAVITS BY POLITICAL PARTIES</u></b></p> <p>31. (1) Every political party shall, not later than 60 days before the date appointed for a general election under the provisions of this Act, submit to the Commission, in the prescribed forms, the list of the candidates the party proposes to sponsor at the elections, provided that the Commission shall not reject or disqualify the candidate(s) for any reason whatsoever.</p>	<p>3. Section 31(1) of the Principal Act is amended by inserting a new subsection (2) to read: <i>‘Every political party shall include women, youth and persons living with disabilities in the list of candidates which it seeks to sponsor in an election. Provided that not more than two-third of the candidates shall be from the same gender’</i></p>
	<p><b><u>BALLOT BOXES</u></b></p> <p>43. (1) The Commission shall provide suitable boxes for the conduct of elections.</p>	<p>4. Section 43(1) of the Principal Act is amended by inserting a new paragraph (a) &amp; (b) to read:</p>

	<p>(2) The forms to be used for the conduct of elections to the offices mentioned in this Act and election petitions arising there from shall be determined by the Commission.</p> <p>(3) The Polling Agents shall be entitled to be present at the distribution of the election materials from the office to the polling booth.</p> <p>(4) The Polling Agent shall be entitled to be present at the distribution of election materials, voting, counting, collation and the announcement of election results.</p>	<p><i>‘The commission shall-</i></p> <p>a) <i>provide smart card reader or any other adopted technological device for the accreditation of voters</i></p> <p>b) <i>provide suitable <b>ballot</b> boxes and any other technological device for the conduct of elections’</i></p>
	<p><b><u>POLLING AGENTS</u></b></p> <p>45. (1) ) Each political party may, by notice in writing addressed to the Electoral Officer of the Local Government Area or Area Council, appoint a polling agent for each polling unit and collation center in the Local Government Area or Area Council for which it has a candidate and the notice, which sets out the name and address of the polling agent, shall be accompanied by two passport photographs of each polling agent and sample signature of the polling agent and be given to the Electoral officer at least 14 days before the date fixed for the election:</p> <p>PROVIDED that no person presently serving as Chairman or Member of a Local Government or Area Council, Commissioner of a State, Deputy Governor, or Governor of a State, Minister or any other person holding political office under any tier of Government and who has not resigned his appointment at least 3 months before the election shall serve as a polling agent of any political party, either at the polling unit or at any centre designated for collection of results of election.</p> <p>(2) Notwithstanding the requirement of subsection (1) of this section, a candidate shall not be precluded from doing any act or thing which he has appointed a polling agent to do on his behalf under this Act.</p> <p>(3) Where in this Act, an act or thing is required or authorized to be done by or in the presence of a polling</p>	<p>5. Section <b>45</b> of the Principal Act is amended by</p> <p>a) amending the words ‘<i>accredited election observer</i>’ in the marginal note</p> <p>b) inserting a new subsection <b>(3)</b> to read, ‘<i>Election observers shall be accredited to observe the electoral process as prescribed by the Commission</i>’</p> <p>c) inserting the words ‘<i>accredited election observer</i>’ in subsection <b>(4)</b></p>

	<p>agent, the non-attendance of the Polling Agent at the time and place appointed for the act or thing or refusal by the Polling Agent to do the act or thing shall not, if the act or thing is otherwise done properly, invalidate the act or thing.</p>	
	<p><b><u>ISSUE OF BALLOT PAPER</u></b></p> <p>49. (1) Any person intending to vote with his voter’s card, shall present himself to a Presiding Officer at the polling unit in the constituency in which his name is registered with his voter’s card</p> <p>(2) The Presiding Officer shall, on being satisfied that the name of the person is on the register of voters, issue him a ballot paper and indicate on the Register that the person has voted.</p>	<p>6. Section <b>49(2)</b> of the Principal Act is amended by inserting the expressions, <i>‘use a smart card reader or any other technological device in a manner prescribed by the Commission to accredit voters’</i> after the word ‘voter’ in line 2</p> <p>7. Section <b>49</b> of the Principal Act is amended by inserting a new subsection <b>(3)</b> to read, <i>‘The Presiding Officer shall issue ballot paper to only voters who have been duly accredited in line with subsection (2)’</i></p>
	<p><b><u>CONDUCT OF POLL BY OPEN SECRET BALLOT</u></b></p> <p>52. (1) Voting at an election under this Act shall be by open secret ballot.</p> <p>(2) Voting at an election under this Act shall be in accordance with the procedure determined by the Independent National Electoral Commission.</p> <p>(3) A voter on receiving a ballot paper shall mark it in the manner prescribed by the Commission.</p> <p>(4) All ballots at an election under this Act at any polling station shall be deposited in the ballot box in the</p>	<p>8. Section <b>52</b> of the Principal Act is amended by replacing subsection <b>(2)</b> with, <i>‘The commission may adopt electronic voting or any other method of voting in any election it conducts’</i>.</p> <p>9. Section <b>52(3)</b> of the principal Act is amended to read, <i>‘There shall be a voting cubicle at all polling unit where voters</i></p>

	open view of the public.	<i>on receiving a ballot paper shall mark it in the manner prescribed by the Commission'</i>
	<p><b><u>OVER VOTING</u></b></p> <p>53. (1) No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election.</p> <p>(2) Where the votes cast at an election in any polling unit exceed the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the Commission and another election may be conducted at a date to be fixed by the Commission where the result at that polling unit may affect the overall result in the Constituency.</p> <p>(3) Where an election is nullified in accordance with subsection (2) of this section, there shall be no return for the election until another poll has taken place in the affected area.</p> <p>(4) Notwithstanding the provisions of subsections (2) and (3) of this section the Commission may, if satisfied that the result of the election will not substantially be affected by voting in the area where the election is canceled, direct that a return of the election be made.</p>	10. Section <b>53(2)</b> of the Principal Act is amended by deleting the word ' <i>registered</i> ' in line 2 and inserting the word ' <i>accredited</i> '
	<p><b><u>COUNTING OF VOTES AND FORMS</u></b></p> <p>63. (1) The Presiding Officer shall, after counting the votes at the polling unit, enter the votes scored by each candidate in a form to be prescribed by the Commission as the case may be.</p> <p>(2) The form shall be signed and stamped by the Presiding Officer and countersigned by the candidates or their polling agents where available at the Polling unit.</p> <p>(3) The Presiding Officer shall give to the Polling Agents and the police officer where available a copy</p>	<p>11. Section <b>63(1)(a)</b> of the Principal Act is amended by inserting a new subsection <b>1(a)</b> to read:</p> <p><i>'The presiding officer shall:</i></p> <p><i>At close of voting, announce the number of accredited voters, enter the number in a form to be prescribed by the Commission and transmit same using the Smart Card</i></p>

	<p>each of the completed Forms after it has been duly signed as provided in subsection (2) of this section.</p> <p>(4) The Presiding Officer shall count and announce the result at the Polling unit.</p>	<p><i>reader or any other adopted technological device’.</i></p> <p>12. Section <b>63(3)</b> of the Principal Act is amended to read, <i>‘The presiding officer shall give to the polling agent, security personnel and accredited election observer where available a copy of the completed form as prescribed by the Commission.’</i></p>
	<p><b><u>POST-ELECTION PROCEDURE AND COLLATION OF ELECTION RESULTS</u></b></p> <p>65. After the recording and announcement of the result, the presiding officer shall deliver the same along with election materials under security and accompanied by the candidates or their polling agents, where available, to such person as may be prescribed by the Commission.</p>	<p>13. Section <b>65</b> of the Principal Act is amended by</p> <ul style="list-style-type: none"> <li>- inserting after the word <i>‘result’</i> in the marginal note the expressions <i>‘posting of result at the polling unit’.</i></li> <li>- inserting new subsections (a) (b) (c) (d) to read as follows: <ul style="list-style-type: none"> <li><i>‘The presiding officer shall:</i></li> <li>(a) <i>Announce the official election result</i></li> <li>(b) <i>Complete the election result forms prescribed by the Commission and shall post the prescribed form at the Polling Unit</i></li> <li>(c) <i>Transmit the official election result using the Smart Card reader or adopted technological device adopted by the Commission</i></li> <li>(d) <i>Deliver the official election result in the prescribed form and</i></li> </ul> </li> </ul>

		<p><i>election materials under security to such person(s) as may be prescribed by the Commission’.</i></p>
	<p><b><u>REJECTION OF BALLOT PAPER WITHOUT OFFICIAL MARK</u></b></p> <p>66. (1) Subject to subsection (2) of this section, a ballot paper which does not bear the official mark shall not be counted.</p> <p>(2) If the Returning Officer is satisfied that a ballot paper which does not bear the official mark was from a book of ballot papers which was furnished to the Presiding Officer of the polling unit in which the vote was cast for use at the election in question, he shall, notwithstanding the absence of the official mark, count that ballot paper.</p>	<p>14. Section <b>66(2)</b> of the Principal Act is amended by inserting after the word ‘<i>paper</i>’ in line 5, the expressions ‘<i>at the collation centre</i>’</p>
	<p><b><u>ENDORSEMENT ON REJECTED BALLOT PAPER WITHOUT OFFICIAL MARK</u></b></p> <p>67. (1) The Presiding Officer shall endorse the word “rejected” on the ballot paper rejected under section 54(1) of this Act and for any other reason, and the ballot papers shall not be counted except otherwise allowed by the Returning Officer who may overrule the Presiding Officer.</p> <p>(2) If an objection to the decision of a Presiding Officer to reject a ballot paper is raised by a candidate or a polling agent at the time the decision is made, the Presiding Officer shall add to the word “rejected”, the phrase “but objected to”.</p> <p>phrase “but objected to”.</p> <p>(3) The Presiding Officer shall prepare a statement on rejected ballot papers, stating the number rejected, the reason for rejection, and their serial number, he shall on request, allow a candidate or a polling agent to copy the</p>	<p>15. Section <b>67</b> of the Principal Act is amended by inserting a new subsection (<b>4</b>) to read as follows,</p> <p><i>‘the Collation Officer and or the Returning Officer shall cancel ballot if satisfied that:</i></p> <ol style="list-style-type: none"> <li><i>a. Over voting as provided in section 53 of the Principal Act</i></li> <li><i>b. None use of the smart card reader</i></li> <li><i>c. Violence and violent disruption</i></li> <li><i>d. Or on any other ground as prescribed by the Commission’.</i></li> </ol>

	statement.	
	<p><b><u>POSTING OF RESULTS</u></b></p> <p>71. The Commission shall cause to be posted on its notice board and website, a notice showing the candidates at the election and their scores, and the person declared as elected or returned at the election.</p>	<p>16. Section <b>71</b> of the Principal Act is amended to read,  <i>'The commission shall cause to be posted on its website or any other accessible platform the official election result which shall include the polling units level results'</i></p>
	<p><b><u>NOMINATION OF CANDIDATES BY PARTIES</u></b></p> <p>87. (1) A political party seeking to nominate candidates for elections under this Act shall hold primaries for aspirants to all elective positions.</p> <p>(2) The procedure for the nomination of candidates by political party for the various elective positions shall be by direct or indirect Primaries.</p> <p>(3) A political party that adopts the direct primaries procedure shall ensure that all aspirants are given equal opportunity of being voted for by members of the party.</p> <p>(4) A political party that adopts the system of indirect primaries for the choice of its candidates shall adopt the procedure outlined below –</p> <p>(a) in case of nomination to the position of presidential candidate, a party shall –</p> <p>(i) hold a special presidential convention in the Federal Capital Territory or any other place within the Federation that is agreed by the National Executive Committee of the party where delegates shall vote for each of the aspirants at the designated centre, and</p> <p>(ii) the aspirant with the highest number of votes at the end of voting, shall be declared the</p>	<p>17. Section 87 of the Principal Act is amended by</p> <p>1. inserting a new subsection <b>(1)</b> to read,  <i>'A Political party seeking to nominate candidates for elections under the Act shall adopt direct or indirect primaries for aspirants to all elective positions, which shall be monitored by the Commission and the result of the primaries may be endorsed or certified by the Commission. Provided that the primaries election was in compliance with the electoral Act'</i></p> <p>2. inserting a new subsection <b>(2)</b> to read,  <i>'A Political party shall not impose nomination qualification or disqualification criteria, measures, or conditions on any aspirants or candidate'</i></p>

	<p>winner of the Presidential primaries of the political party and the aspirant's name shall be forwarded to the Independent National Electoral Commission as the candidate of the party;</p> <p>(b) in the case of nomination to the positions of Governorship candidate, a political party shall, where it intends to sponsor candidates-</p> <p>(i) hold a special congress in the State Capital with delegates voting for each of the aspirants at the congress to be held on a specified date appointed by the National Executive Committee (NEC) of the party, and</p> <p>(ii) the aspirants with the highest number of votes at the end of the voting shall be declared the winner of the primaries of the party and the aspirant's name shall be forwarded to the Commission as the candidate of the party, for the particular State;</p> <p>(c) In the case of nomination to the position of a candidate to the Senate, House of Representatives and State House of Assembly, a political party shall, where it intends to sponsor candidates-</p> <p>(i) hold special congresses in the Senatorial District, Federal Constituency and the State Assembly constituency respectively, with delegates voting for each of the aspirants in the designated centre on specified dates; and</p> <p>(ii) the aspirant with the =highest number of votes at the end of voting shall be declared the winner of the primaries of the party and the aspirant's name shall be forwarded to the Commission as the candidate of the party;</p> <p>(d) in the case of the position of a Chairmanship candidate of an Area Council, a political party shall, where it intends to sponsor candidates-</p> <p>(i) hold special congresses in the Area</p>	<p><i>for any election in its constitution, guidelines, or rules for nomination of candidates for elections, except as prescribed under sections 65, 66, 106, 107, 131, 137, 177, and 187 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)'. </i></p> <p>3. inserting a new subsection (3) to read, <i>'For the purpose of the nomination of candidates for election, the total fees, charges, dues and any payment howsoever named imposed by a political party on an aspirant shall not exceed:</i></p> <p>i. <i>One Hundred Thousand Naira (N100,000) for a Ward Councillorship aspirant in the FCT;</i></p> <p>ii. <i>Two Hundred Thousand Naira (N200,000) for an Area Council Chairmanship aspirant in the FCT;</i></p> <p>iii. <i>Three Hundred Thousand Naira (N300,000) for a House of Assembly aspirant;</i></p> <p>iv. <i>Five Hundred Thousand Naira (N500,000) for a House of Representatives aspirant;</i></p>
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<p>Councils, with delegates voting for each of the aspirants at designated centres on a specified date, and</p> <p>(ii) the aspirant with the highest number of votes at the end of voting shall be declared the winner of the primaries of the party and the aspirant's name shall be forwarded to the Commission as the candidate of the party.</p> <p>(5) In the case of a Councillorship candidate, the procedure for the nomination of the candidate shall be by direct primaries in the ward and the name of the candidate with the highest number of votes shall be submitted to the Commission as the candidate of the party</p> <p>6) Where there is only one aspirant in a political party for any of the elective positions mentioned in paragraph (4) (a), (b), (c) and (d), the party shall convene a special convention or congress at a designated centre on a specified date for the confirmation of such aspirant and the name of the aspirant shall be forwarded to the Commission as the candidate of the party.</p> <p>(7) A political party that adopts the system of indirect primaries for the choice of its candidate shall clearly outline in its constitution and rules the procedure for the democratic election of delegates to vote at the convention, congress or meeting, in addition to delegates already prescribed in the constitution of the party.</p> <p>(8) A political appointee at any level shall not be an automatic voting delegate at the convention or congress of any political party for the purpose of nomination of candidates for any election, except where such a political appointee is also an officer of a political party.</p> <p>(9) Notwithstanding the provisions of this Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines of a political party has not been complied with in the selection or nomination of a candidate of a political party for election, may apply to the Federal High Court</p>	<p>v. <i>One Million Naira (N1,000,000) for a Senatorial aspirant;</i></p> <p>vi. <i>Two Million Naira (N2,000,000) for a Governorship aspirant; and</i></p> <p>vii. <i>Five Million Naira (N5,000,000) for a Presidential aspirant'.</i></p> <p>4. inserting a new subsection (4) to read, <i>'Every Political party shall;</i></p> <p>a. <i>publish the venues, dates, times, guidelines, procedures and other relevant information of its primaries, conventions or any event conveyed for the purpose of nominating candidates for the party in, at least, two (2) national and two (2) local newspapers, parties online platform and, at least ten (10) days before the date of the event to nominate candidates for the party'</i></p> <p>b. <i>submit to the commission an updated register of members to used for the primaries not later than five days before the conduct of their primaries</i></p> <p>c. <i>provide to each aspirant an updated copy of the register of members to be used for the primaries</i></p>
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<p>or the High Court of a State or FCT, for redress.</p> <p>(10) Nothing in this section shall empower the courts to stop the holding of primaries or general election or the processes thereof under this Act pending the determination of a suit.</p>	<p><i>d. ensure the inclusion and participation of women, youth, and persons with disabilities’.</i></p> <p>5. inserting a new subsection <b>(5)</b> to read,  <i>‘A Political party that adopts the system of direct primaries for the nomination of its candidate(s) for an election shall ensure that all aspirants are given equal opportunity of being voted for by registered members of the party, provided that not more than two-thirds of the aspirants shall be from the same gender. All registered members of the party are eligible to vote.’</i></p> <p><i>For the conduct of direct primaries a political party shall-</i></p> <p><i>i. Ensure the presence of an official and updated register of party members displayed at the venue(s) of the primary election;</i></p> <p><i>ii. Ensure that for the nomination of any candidate, primaries shall be conducted at the Ward level</i></p> <p><i>iii. Communicate date, time, and venue of the primaries to the electoral commission</i></p> <p><i>iv. Declare the aspirants with the highest vote cast as the winner of the primaries</i></p>
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		<p>v. <i>Submit the name and details of the aspirant with the highest votes cast at the primaries as the candidate of the party to the Commission in the prescribed form.'</i></p> <p>6. inserting a new subsection (6) to read, <i>'For the conduct of indirect primaries the political party shall have both statutory delegates and Ad-hoc delegates who shall be the only delegates eligible to vote to nominate the candidate for the party.</i></p> <p>a. <i>for the purpose of indirect primaries Ad-hoc delegates shall:</i></p> <p>i. <i>be registered members of the party elected at Ad-Hoc Delegates Elections conducted by the party.</i></p> <p>ii. <i>be selected through a transparent intra-party election to be conducted at venues prescribed by the party.</i></p> <p>iii. <i>have at least 35% women representation.</i></p> <p>b. <i>for the purpose of indirect primaries, Statutory delegates shall be elected officials and members of the board of trustees of the party and elected government functionaries who are registered members of the party.</i></p>
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		<p>c. <i>for the purpose of indirect primaries, political parties should submit a list of delegates to the commission no later than ten days before the conduct of party primaries and post same at the venue of the party primaries</i>’.</p> <p>7. inserting a new subsection (7) to read,  <i>‘For the indirect primaries, a political party shall-</i>  i. <i>communicate date, time, and venue of the primaries to the electoral commission</i>  ii <i>ensure a transparent and democratic primary election</i>  iii. <i>ensure that all aspirants are given equal opportunity to be voted as candidates</i>  iv. <i>declare the aspirants with the highest vote cast as the winner of the primaries</i>  v. <i>Submit the name and details of the aspirant with the highest votes cast at the primaries as the candidate of the party to the Commission in the prescribed form</i>’.</p> <p>inserting a new subsection (8) to read,  <i>‘where there is only one aspirant in a political party for any of the elective positions, the party shall:</i>  a. <i>convene a special convention at a designated center on a</i></p>
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		<p><i>specific date to vote to confirm that aspirant as the candidate of the party</i></p> <p><i>b. communicate date, time, and venue of the primaries to the electoral commission</i></p> <p><i>c. submit the name and details of the aspirant confirmed at such convention to the commission as the candidate of the party for the position’.</i></p> <p><i>d. inserting a new subsection (9) to read, ‘Notwithstanding the provision of this Act or rules of a political party, an aspirant who complains that any of the provision of this Act or rule of a political party has not been complied with in the nomination of a candidate of a political party for election may apply to a court of competent jurisdiction for redress’.</i></p>
	<p><b><u>Election to the offices of Chairman, Vice-Chairman and Councilors</u></b></p> <p>104. (1) There shall be elected for each Area Council in the Federal Capital Territory a Chairman and Vice-Chairman.</p> <p>(2) There shall be a councilor for each electoral ward in an area council of the Federal Capital Territory</p>	<p>Section 104 is amended</p> <p>1) by inserting a proviso to read: <i>PROVIDED: That the Chairman and Vice-Chairman of each Area Council shall not be from the same gender and not more than two-thirds of the Councilors shall be from the same gender</i></p>

	<p><b><u>Qualification</u></b></p> <p>106. A person shall be qualified for election under this part of this Act if he-</p> <ul style="list-style-type: none"> <li>a) is a citizen of Nigeria</li> <li>b) is registered as a voter</li> <li>c) has attained the age of 25 years for Councillor and 30 years for Chairman and Vice-Chairman;</li> <li>d) is educated up to at least the School Certificate level or its equivalent;</li> <li>e) is a member of a political party and is sponsored by that</li> </ul>	<p>Section 106(c) is amended to read:</p> <p><i>(c) has attained the age of 25 years for Councillor, Chairman and Vice-Chairman</i></p>
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**Constitutional Amendment Proposition for Electoral Reforms**

Yiaga Africa recognizes that some of the reforms required in the nation’s electoral process will require amendments and alterations of the 1999 Constitution (as amended). These proposed alterations and amendments to the 1999 constitution of the Federal Republic of Nigeria (as amended) encompasses our quest to address the declining quality of elections and the loss of faith in the democratic institution as a result of the apparent inadequacies inherent in our current electoral framework in its delivery of free, fair and credible elections in Nigeria. Some of the required constitutional amendments are outlined below for the guidance and necessary actions of the Committees;

**1. Appointment of INEC Chairman & Commissioners**

The mode of appointment of the commission remains an issue of concern for its independence, as many believe it may be biased toward the appointing authority. Hence, the power to appoint the INEC chairman to be abrogated. Rather, the chairman should be nominated by the National Judicial Council (NJC) which shall, in turn, make recommendations to the Council of State. The council shall screen the nominated candidates and forward names of successful candidates to the National Assembly through the Presidency for confirmation. Similarly, to ensure gender balance in the composition of the National Electoral Commissioners, It is proposed that:

- an amendment to Section 14 (1) (b) of the Third Schedule of the 1999 Constitution by inserting after the word commissioners *shall not exceed more than 65% of the same gender*
- Amendment to Section 14 (3) of the Third Schedule of the 1999 Constitution by inserting a new subsection (d) *shall not exceed more than 65% of the same gender*

The age for the appointment as chairman of the Commission is 40 years old, while the National Commissioner is 35 years old. The fourth alteration to the Constitution amended the age for contesting the presidency to 35 years old. In order to ensure an inclusive leadership structure of the Commission, it is recommended that:

- An amendment to Section 14(1) (b) by replacing 40 years with 35 years and will read as follows:  
*'be not less than 35 years of age for the Chairman and National Commissioner*

## **2. Electoral Offences**

Yiaga Africa supports proposed legislation in the National Assembly on the establishment of the Electoral offenses Commission to prosecute electoral malpractices and offences. We, therefore, propose an alteration to Section 153 (1) by inserting a new subsection (o) to establish the National Electoral Offences Commission. Similarly, an alteration to Part 1 of the Third Schedule to the 1999 Constitution (as amended) to insert the Electoral Offences Commission as one of the federal executive bodies with powers to prosecute electoral offenders who have consistently gone scot-free after committing heinous crimes against the nation's elections and democracy. This will not only help in reducing the burden on INEC but will engender electoral justice and deter would-be electoral offenders. The powers, composition, operations, and functions of the Electoral Offences Commission shall align with the proposed Bill to establish the Electoral Offences Commission.

## **3. Electoral Justice**

Yiaga Africa is concerned about the increasing judicialization of politics, a situation where the courts are increasingly being exposed to political matters. We propose a review for the duality of jurisdiction Election Petition Tribunals and other courts and harmonize timelines for the determination of pre-election matters so pre-election disputes can be resolved well before the date of elections. We propose alterations to:

- Section 251 of the 1999 Constitution (as amended) to preclude the Federal High Court from entertaining pre-election disputes emanating from congresses, conferences, conventions, or other meetings convened by political parties for the purpose of electing members of its executive committees or other governing bodies
- Section 272 of the 1999 Constitution (as amended) to preclude the High Court of a State from entertaining pre-election disputes emanating from congresses, conferences, conventions, or other meetings convened by political parties for the purpose of electing members of its executive committees or other governing bodies.
- Section 285 of the 1999 Constitution (as amended) to empower the Tribunals established therein to hear pre-election matters as it relates to respective elections under

that section and to review the timeline for pre-election matters to ensure all pre-election cases are determined before the conduct of elections.

#### **4. Vacant Office as a Result of Death**

**Section 68 (1) (i)** is amended by inserting a new subsection for a vacancy created due to death.

*-He/She dies before the expiration of his/her tenure*

**Section 109 (1) (f)** is amended by inserting a new subsection for a vacancy created due to death.

*-He/She dies before the expiration of his/her tenure*

To address the gap on the timeline for informing the Independent National Electoral Commission (INEC) on the existence of a vacancy as a result of the death of a lawmaker. It is proposed that:

#### **Section 68 is amended by inserting a new subsection (4)**

*Upon the occurrence of a vacancy in accordance with this section, the President of the Senate or Speaker of the House of Representatives shall inform the Independent National Electoral Commission within 14days of such vacancy*

#### **Section 109 (4) is amended by inserting a new subsection (4)**

*Upon the occurrence of a vacancy in accordance with this section, the Speaker of the House of Assembly shall inform the Independent National Electoral Commission within 14days of such vacancy*

### **Conclusion**

Electoral reform is at the heart of democratic consolidation in Nigeria as it promotes the common good, social stability, and national development. As an organization committed to the promotion of sustainable democracy through credible elections in Nigeria, we urge the National Assembly to give Nigerians an Electoral Act that will promote credible elections and support democratic development in Nigeria. A truly free, fair, and credible election is a collective responsibility, we call on election stakeholders and citizens to hold the National Assembly accountable to the passage of an Electoral Act within the timeline of March 2021.

The President is the determining factor for the passage of the Electoral Act, as with other legislation, he is required to assent to make it law, in the interest of national development, we call on the President to assent to the proposed amendments when it is transmitted.